

110TH CONGRESS
1ST SESSION

S. 1462

To amend part E of title IV of the Social Security Act to promote the adoption of children with special needs.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2007

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend part E of title IV of the Social Security Act to promote the adoption of children with special needs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Adoption Equality Act
5 of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) In 1997, Congress enacted the Adoption
9 and Safe Families Act of 1997 (Public Law 105–89;
10 111 Stat. 2115), clearly stating that a child’s health

1 and safety are paramount, and that each child de-
2 serves a permanent home.

3 (2) The Adoption and Safe Families Act of
4 1997 provides incentives for adoptions, and for fiscal
5 year 2005, States placed nearly 51,323 children
6 from State care.

7 (3) In 2003, the Adoption Promotion Act (Pub-
8 lic Law 108–145, 117 Stat. 1879), which reauthor-
9 ized the incentive program, gave greater emphasis
10 on moving older children into permanency.

11 (4) Despite the increase in adoptions, in 2005
12 more than 100,949 children in foster care have the
13 permanency goal of adoption but are still waiting to
14 be adopted.

15 (5) Some States have chosen to limit services
16 provided to special needs adopted children who are
17 not eligible for adoption assistance under part E of
18 title IV of the Social Security Act, in effect discrimi-
19 nating against a child whose parental rights have
20 been terminated by basing the child’s eligibility for
21 such assistance on the financial status of adults who
22 are no longer the child’s legal parents.

23 (6) These children have many special needs and
24 require Federal financial assistance and support to

1 start the physical and emotional healing after past
 2 years of abuse and neglect.

3 **SEC. 3. PROMOTION OF ADOPTION OF CHILDREN WITH**
 4 **SPECIAL NEEDS.**

5 (a) IN GENERAL.—Section 473(a) of the Social Secu-
 6 rity Act (42 U.S.C. 673(a)) is amended by striking para-
 7 graph (2) and inserting the following:

8 “(2)(A) For purposes of paragraph (1)(B)(ii), a child
 9 meets the requirements of this paragraph if such child—

10 “(i)(I) at the time of termination of parental
 11 rights was in the care of a public or licensed private
 12 child placement agency or Indian tribal organization
 13 pursuant to a voluntary placement agreement, relin-
 14 quishment, or involuntary removal of the child from
 15 the home, and the State has determined, pursuant
 16 to criteria established by the State (which may, but
 17 need not, include a judicial determination), that con-
 18 tinuation in the home would be contrary to the safe-
 19 ty or welfare of such child;

20 “(II) meets all medical or disability require-
 21 ments of title XVI with respect to eligibility for sup-
 22 plemental security income benefits; or

23 “(III) was residing in a foster family home or
 24 child care institution with the child’s minor parent
 25 (pursuant to a voluntary placement agreement, relin-

1 quishment, or involuntary removal of the child from
2 the home, and the State has determined, pursuant
3 to criteria established by the State (which may, but
4 need not, include judicial determination), that con-
5 tinuation in the home would be contrary to the safe-
6 ty or welfare of such child); and

7 “(ii) has been determined by the State, pursu-
8 ant to subsection (c), to be a child with special
9 needs, which needs shall be considered by the State,
10 together with the circumstances of the adopting par-
11 ents, in determining the amount of any payments to
12 be made to the adopting parents.

13 “(B) Notwithstanding any other provision of law, and
14 except as provided in paragraph (7), a child who is not
15 a citizen or resident of the United States and who meets
16 the requirements of subparagraph (A) shall be treated as
17 meeting the requirements of this paragraph for purposes
18 of paragraph (1)(B)(ii).

19 “(C) A child who meets the requirements of subpara-
20 graph (A), who was determined eligible for adoption as-
21 sistance payments under this part with respect to a prior
22 adoption (or who would have been determined eligible for
23 such payments had the Adoption and Safe Families Act
24 of 1997 been in effect at the time that such determination
25 would have been made), and who is available for adoption

1 because the prior adoption has been dissolved and the pa-
2 rental rights of the adoptive parents have been terminated
3 or because the child’s adoptive parents have died, shall be
4 treated as meeting the requirements of this paragraph for
5 purposes of paragraph (1)(B)(ii).”.

6 (b) EXCEPTION.—Section 473(a) of the Social Secu-
7 rity Act (42 U.S.C. 673(a)) is amended by adding at the
8 end the following:

9 “(7)(A) Notwithstanding any other provision of this
10 subsection, no payment may be made to parents with re-
11 spect to any child that—

12 “(i) would be considered a child with special
13 needs under subsection (c);

14 “(ii) is not a citizen or resident of the United
15 States; and

16 “(iii) was adopted outside of the United States
17 or was brought into the United States for the pur-
18 pose of being adopted.

19 “(B) Subparagraph (A) shall not be construed as pro-
20 hibiting payments under this part for a child described
21 in subparagraph (A) that is placed in foster care subse-
22 quent to the failure, as determined by the State, of the
23 initial adoption of such child by the parents described in
24 such subparagraph.”.

1 (c) REQUIREMENT FOR USE OF STATE SAVINGS.—

2 Section 473(a) of the Social Security Act (42 U.S.C.
3 673(a)), as amended by subsection (b), is amended by
4 adding at the end the following:

5 “(8) A State shall spend an amount equal to the
6 amount of savings (if any) in State expenditures under
7 this part resulting from the application of paragraph (2)
8 on and after the effective date of the amendment to such
9 paragraph made by section 3(a) of the Adoption Equality
10 Act of 2007 to provide to children or families any service
11 (including post-adoption services) that may be provided
12 under this part or part B.”.

13 (d) DETERMINATION OF A CHILD WITH SPECIAL
14 NEEDS.—Section 473(c) of the Social Security Act (42
15 U.S.C. 673(c)) is amended to read as follows:

16 “(c) For purposes of this section, a child shall not
17 be considered a child with special needs unless—

18 “(1)(A) the State has determined, pursuant to
19 a criteria established by the State (which may or
20 may not include a judicial determination), that the
21 child cannot or should not be returned to the home
22 of his parents; or

23 “(B) the child meets all medical or disability re-
24 quirements of title XVI with respect to eligibility for
25 supplemental security income benefits; and

1 “(2) the State has determined—

2 “(A) that there exists with respect to the
3 child a specific factor or condition (such as eth-
4 nic background, age, or membership in a minor-
5 ity or sibling group, or the presence of factors
6 such as medical conditions or physical, mental,
7 or emotional handicaps) because of which it is
8 reasonable to conclude that the child cannot be
9 placed with adoptive parents without providing
10 adoption assistance under this section and med-
11 ical assistance under title XIX; and

12 “(B) that except where it would be against
13 the best interests of the child because of such
14 factors as the existence of significant emotional
15 ties with prospective adoptive parents while in
16 the care of such parents as a foster child, a rea-
17 sonable, but unsuccessful, effort has been made
18 to place the child with appropriate adoptive
19 parents without providing adoption assistance
20 under this section or medical assistance under
21 title XIX.”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on October 1, 2007.

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